

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

SONY BMG CD
TECHNOLOGIES LITIGATION

Case No. 1:05-cv-09575-NRB

DECLARATION OF ETHAN PRESTON IN SUPPORT OF PLAINTIFFS' CLASS
COUNSELS' APPLICATION FOR ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES

I, Ethan Preston, declare as follows:

1. I am an attorney in good standing, duly licensed and admitted to the Courts of the State of Illinois and the United States District Courts for the Northern District of Illinois. I am counsel of record for Andrew Klewan and James Springer in *In Re SonyBMG Audio Compact Disc*, MDL No. 1750.

2. I submit this declaration in support of Plaintiffs' Class Counsels' application for attorneys' fees and reimbursement of expenses in the above-entitled matter. The testimony set forth in this declaration is based on first-hand knowledge, about which I would and could testify competently in open court if called upon to do so, and on contemporaneously-generated records kept in the ordinary course of business.

3. The total number of professional hours which I expended in the litigation is 66.7. The total lodestar amount for attorney time I expended in the course of the litigation, based upon current rates, is \$19,009.50. I prepared the chart attached hereto as Exhibit A which presents a summary of the time I have spent from October 31, 2005 through March 13, 2006 on the litigation, at a rate of \$285 per hour. I actually spent the time reflected in this declaration, in the exercise of reasonable judgment, on matters that were essential to the prosecution and resolution of the litigation, including factual investigation (including communications with witnesses and class members), legal research, and drafting pleadings (including Klewan and Springer's original complaint). I was careful not to expend unnecessary hours and not to duplicate work done by others.

4. While I expended un-reimbursed expenses in connection with prosecution of

the litigation on behalf of Andrew Klewan and James Springer, these expenses are *de minimus*, and are not sought to be reimbursed.

I declare under penalty of perjury under the laws of the United States of America and the State of New York that the foregoing is true and correct.

Executed this 22th day of March, 2006, at Chicago, Illinois.

A handwritten signature in black ink, appearing to be 'Ethan Preston', written over a horizontal line.

Ethan Preston

Exhibit A Ethan Preston Fee Summary

10/31/2005	1.5	Factual investigation; communicate with witness
11/1/2005	1.4	Draft memo on Sony XCP2 DRM for D Lynch and O Giskan on Sony XCP2 DRM; TC to answer O Giskan's additional questions
11/2/2005	7.1	Additional factual investigation on XCP2 DRM to identify exact functionality of XCP2 Cds, email potential witnesses
11/3/2005	0.7	Factual investigation of Sony patch; email D Lynch and O Giskan re: security issues with Sony's patch
11/5/2005	2.5	Prepare memo on events subsequent to disclosure of XCP including uninstaller insecurities, and other issues surrounding uninstaller
11/6/2005	0.4	Contact expert witness in Sony case
11/7/2005	0.5	Teleconference with D Lynch, O Giskan, J Solotaroff re: venue choice and potential claims
11/8/2005	3.2	Continue factual investigation; communicate with witnesses wrt computer damage caused by XCP; search for expert witnesses
11/9/2005	5.9	Continue email various contacts in electronic civil rights and computer science fields to find additional lay witnesses and expert witnesses; update O Giskan re: lawsuit developments; speak with reporter about Sony investigation; finalize preparations to use eplaw.us website to receive witness communications
11/10/2005	12.6	Factual investigation to identify exact CD titles with XCP2 to prepare complaint; interview James Springer to investigate his claims relative to XCP2; prepare retention letter; research Springer's potential claims vs. Sony, including federal Computer Fraud Act claim, Illinois Consumer Fraud Act claim, civil Illinois computer crime violation claim, and analyze XCP EULA; additional factual investigation into XCP2 functionality to prepare precise allegations of computer fraud; begin prepare initial draft of complaint for Klewan and Springer

Exhibit A Ethan Preston Fee Summary

11/11/2005	6.4	Coordinate with New York counsel re: Springer complaint and individual allegations, assist with redraft of complaint, esp. express warranty claim vis-a-vis warranty exclusion in XCP EULA, draft implied warranty claim; email witnesses; explain retention letter to Springer; explain XCP functions and related allegations to NY counsel;
11/12/2005	1.1	Factual investigation of MediaMax and email D Lynch and NY counsel
11/13/2005	1.9	Review, and prepare comments and revisions for, NY counsel's draft complaint
11/14/2005	5.3	Finalize review, comments and revisions of NY counsel's draft complaint; redraft Illinois Consumer Fraud Act claim; communicate with witnesses; investigate injunctive relief under NJ consumer fraud act; communicate with Springer re: allegations
11/15/2005	0.6	Communicate with witnesses
11/17/2005	0.8	Communicate with witnesses
11/18/2005	3.9	Research and prepare initial email analysis of claims against software company complicit in computer fraud; email James Springer about software; research software company in SEC database; exchange email re: potential causes of action wrt to software company; communicate with witnesses regarding claims against Sony and software company
11/21/2005	2.2	Advise witness about remediation of Windows computer and preservation of evidence
11/29/2005	0.7	Conference with co-counsel, communicate with witnesses about class action process
12/1/2005	0.6	Additional research on MediaMax; communicate with witnesses re: MediaMax functions
12/5/2005	1.2	Conference with O Giskan re: developments in Sony case, communicate with witnesses re: class action process
12/17/2005	1.3	Review Lerach's MDL panel filing, email J Solotaroff re: MDL panel filing; email client re: MDL panel filing

Exhibit A Ethan Preston Fee Summary

1/17/2006	3.1	Research Sony settlement to summarize relevant terms, communicate with witnesses re: class process, claim submissions; communicate with Springer re: settlement, conference with D Lynch and J Solotaroff re: communications with witnesses
1/18/2006	0.3	TC with J Springer re: case updates
2/8/2006	0.5	Email exchange with witness/class member regarding class settlement
2/10/2006	0.5	Email and call NY counsel re: dispute with class settlement
3/13/2006	0.5	TC to NY counsel re: appellate litigation, class claim submission
TOTAL:	66.7	